

ORIGINAL

MEMO ENDORSED

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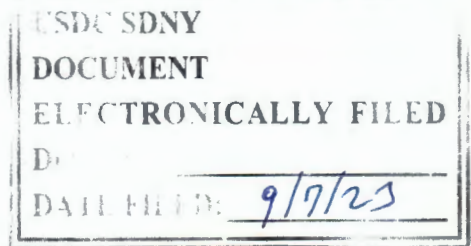
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August 24 , 2023

Via Electronic Case Filing

Honorable Louis L. Stanton,
United States District Judge,
500 Pearl St.
New York, NY 10007-1312



Re: *Creative Glassware Industrial Co., Ltd. v. Lifestyle International LLC*

Case No: 1:22-cv-04074

RE: Motion to Compel Defendant to Respond Plaintiff's Subpoena

Dear Judge Stanton:

This firm represents Plaintiff in the above referenced matter.

On December 19, 2022, the Court entered judgment in favor of Plaintiff against Defendant, Lifestyle International LLC ("Defendant") in the amount of \$198,189.20. [Dkt. 34].

On May 15, 2023, a subpoena to produce documents were served on Defendant. (A copy of the subpoena to produce documents is annexed hereto and the proof of service is annexed hereto as Exhibit A).

Defendant has failed to respond in any regard to the subpoena to produce documents which were required to be responded by May 20, 2023.

Under Rule 69 of the Federal Rules of Civil Procedure (the "FRCP"), a party that obtains a money judgment in a federal district court may enforce that judgment in accordance with the procedure of the state in which the court is located. See Fed. R. Civ. P. 69(a)(1); see *Soundkillers LLC v. Young Money Ent. LLC*, 14cv7980 (KBF) (DF), 2016 WL 4990257, at *3 (S.D.N.Y. Aug. 2, 2016), adopted, 2016 WL 4926198 (S.D.N.Y. Sept. 15, 2016); *Fed. Ins. Co. v. CAC of NY, Inc.*, No. 14-cv-4132 (DRH)(SIL), 2015 WL 5190850, at *2 (E.D.N.Y. Sept. 4, 2015). A judgment creditor may rely on federal or state discovery procedures in order to obtain information relevant to the satisfaction of a judgment. See Fed. R. Civ. P. 69(a)(2); *Soundkillers*, 2016 WL 4990257, at *3; *CAC of NY*, 2015 WL 5190850, at *2

A judgment creditor may also serve a subpoena for documents upon a judgment debtor pursuant to FRCP 45. See *Davis v. Brown*, No. CV 12-1906(SJF)(ETB), 2013 WL 1933850, at *1 (E.D.N.Y. May 9, 2013); *Finkel v. S.I. Assocs. Co., Inc.*, No. CV 2009-5329(ILG)(MDG), 2012 WL 2117888, at *1 (E.D.N.Y. June 11, 2012); see also *Cunningham v. Channer, LLC*, Case # 17-

CV-1305-FPG, 2018 WL 4620391, at *3 (W.D.N.Y. Sept. 26, 2018). Rule 45 provides that an attorney, as an officer of the court, may issue a subpoena on behalf of a court in which the action is pending. *See* Fed. R. Civ. P. 45(a)(2),(3). If a commanded party "fails without adequate excuse to obey the subpoena," the court may hold that party in contempt. Fed. R. Civ. P. 45(g).

Based on Defendant's failure to respond to the subpoena to produce documents, Plaintiff request entry of an order (1) directing Defendant to respond to same within two weeks; and (2) warning Defendant that if it failed to respond to same within two weeks, it will be held in contempt of Court and directed to pay a daily penalty for each day it fails to comply.

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We thank this Court for its time and attention to this matter

Respectfully Submitted,

/s/ Ruoting Men

Ruoting Men, Esq.

Cc: Via ECF Counsel of Record

So
Ordered
Louis L.
Stanton
9/7/23

AO 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of New York

Creative Glassware Industrial Co., Ltd.

Plaintiff

v.

Lifestyle International LLC

Defendant

Civil Action No.

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Lifestyle International LLC

2045 LINCOLN HIGHWAY, 3RD FLOOR, EDISON, NJ, UNITED STATES, 08817

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: All Lifestyle International LLC's bank account information including but not limited to monthly statement and annual tax information; all the property and/or assets belongs to and/or in possession of Lifestyle International LLC.

Place: Glacier Law LLP
41 Madison Ave Suite 2529
New York, NY 10010

Date and Time:

05/20/2023 9:40 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 05/04/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Ruoting Men

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

Creative Glassware Industrial Co., Ltd., who issues or requests this subpoena, are:

Ruoting Men, Glacier Law LLP, 41 Madison Ave Suite 2529, New York, NY 10010 Tel:332-261-8227

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*I received this subpoena for *(name of individual and title, if any)* _____on *(date)* _____.☐ I served the subpoena by delivering a copy to the named person as follows: __________ on *(date)* _____; or☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

*Server's signature*_____
*Printed name and title*_____
Server's address

Additional information regarding attempted service, etc.: _____

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. **22-CV-04074**

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for **Lifestyle International LLC**
was recieved by me on **5/12/2023**:

- ☐ I personally served the summons on the individual at *(place)* on *(date)* ; or
- ☐ I left the summons at the individual's residence or usual place of abode with *(name)* , a person of suitable age and discretion who resides there, on , and mailed a copy to the individual's last known address; or
- ☒ I served the summons on **Arlene Sanchez**, who is designated by law to accept service of process on behalf of **Lifestyle International LLC** at **2045 Lincoln Highway 3rd floor, Edison, NJ 08817** on **05/15/2023 at 3:45 PM**; or
- ☐ I returned the summons unexecuted because ; or
- ☐ Other *(specify)*

My fees are \$ 0 for travel and **\$ 95.00** for services, for a total of **\$ 95.00**.

I declare under penalty of perjury that this information is true.

Date: **05/15/2023**



Server's signature

Michael Weinschenker

Printed name and title

**30 Tamara Drive
Roosevelt, NJ 08555**

Server's address

Additional information regarding attempted service, etc:

I delivered the documents to **Arlene Sanchez** who identified themselves as the person authorized to accept with identity confirmed by subject stating their name. The individual accepted service with direct delivery. The individual appeared to be a brown-haired Hispanic female contact 35-45 years of age, 5'6"-5'8" tall and weighing 180-200 lbs.



Tracking #: 0106555852

